

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

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In re:

Erica Itzhak,

Case No. 24-10669-JPM

Chapter 11

Debtor.

-----X

NOTICE OF HEARING ON MOTION FOR RELIEF FROM STAY

VOLVO CAR FINANCIAL SERVICES US LLC, has filed papers with the court to seek relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant relief from the automatic stay to VOLVO CAR FINANCIAL SERVICES US LLC, or if you want the court to consider your views on the motion, then on or before April 9, 2025, you or your attorney must:

File with the court a written response, explaining your position at:

Court Clerk
U.S. Bankruptcy Court
One Bowling Green
New York, NY 10004-1408

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Scott S. Markowitz, Attorney
1350 Broadway, 11th Floor
New York, NY 10018

U.S. Trustee
Office of the United States Trustee
Alexander Hamilton Custom House
One Bowling Green, Room 534
New York, NY 10004-1408

Yann Geron, Trustee
370 Lexington Avenue, Suite 1208
New York, NY 10017

Annie Wells, Attorney for U.S. Trustee
One Bowling Green, Suite 511
New York, NY 10004

Erica Itzhak
345 East 56th Street Apt 4D
New York, NY 10022

Attend the hearing scheduled to be held on April 16, 2025 at 11:00 a.m. at the U.S. Bankruptcy Court, One Bowling Green, New York, NY 10004 or via Videoconference Zoom for Government.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) days before the return date of this motion.

Date: March 21, 2025

/s/ Geoffrey J. Peters

Geoffrey J. Peters, Esq.

WELTMAN, WEINBERG & REIS CO., LPA

5475 Rings Road, Suite 200

Dublin, OH 43017

(614) 883-0678

gpeters@weltman.com

Attorney for Movant

WWR #041460252

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

-----X

In re:

Erica Itzhak,

Case No. 24-10669-JPM

Chapter 11

Debtor.

**AFFIRMATION IN SUPPORT
OF MOTION FOR RELIEF
FROM THE STAY**

-----X

GEOFFREY J. PETERS, ESQ., an attorney at law duly admitted to practice before the Courts of the State of New York and the Southern District of New York, under the penalties of perjury, duly affirms as follows:

1. I am a shareholder in the law firm of Weltman, Weinberg & Reis Co., L.P.A., attorneys for VOLVO CAR FINANCIAL SERVICES US LLC (“VOLVO”), a secured creditor herein. I am familiar with the facts and circumstances of this matter based upon the information in our file and the attached affidavit of a representative of Movant herein.

2. Jurisdiction is conferred on this Court by the provisions of 28 U.S.C. §1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b).

3. This application is brought pursuant to Rules 4001(a) and 9014 of the Federal Bankruptcy Rules of Procedure (“the Rules”) and §§362(d)(1) and 362(d)(2) of the United States Bankruptcy Code (“the Code”) for an Order, terminating, annulling or modifying the stay imposed under §362(a) of the Code.

4. The Debtor(s) herein filed bankruptcy under Chapter 13 of the Bankruptcy Code on April 19, 2024. The Bankruptcy Case was converted to a Chapter 11 on June 28, 2024.

5. Movant is the holder of a Retail Installment Sale Contract (“Agreement”) with Debtor with respect to the 2020 Volvo XC90 (“Collateral”) bearing vehicle identification number YV4A22PK4L1570435. A copy of the Agreement and Certificate of Title evidencing perfection is attached hereto as Exhibits “A” and “B”.

6. The Debtor is obligated to pay to VOLVO monthly payments in the sum of \$721.21 per month for a period of 72 under the Agreement dated November 29, 2023, by and between VOLVO CAR FINANCIAL SERVICES US LLC and Debtor. In addition, the Debtor must submit a late fee for any payment which is not received within ten (10) days of the due date.

11 USC §362(d)(1)

7. Section 362(d)(1) of the Code provides that the Court shall modify the automatic stay for cause including lack of adequate protection.

8. According to the books and records of VOLVO, the Debtor is in arrears for the payments that became due contractually on January 13, 2025, and all subsequent payments. Therefore as of March 6, 2025, the contractual arrears will total at least \$1,422.23. As such, VOLVO is not adequately protected. Attached as Exhibit “1” is an Affidavit of a qualified Bankruptcy representative employed by Movant.

9. Accordingly, it is submitted that sufficient cause has been demonstrated to vacate the stay pursuant to 11 U.S.C. §362(d)(1).

11 U.S.C. §362(d)(2)

10. Section 362(d)(2) of the Code provides as an additional ground for relief from the stay that the Court shall grant relief if “(A) the debtor does not have an equity in such property and (B) such property is not necessary to an effective reorganization.”

11. According to J.D. Power the average retail value of the Collateral is \$27,156.00. According to the books and records of VOLVO, the current outstanding balance on Debtor’s account is \$33,493.22. A copy of J.D. Power valuation is attached hereto as Exhibit “C”.

12. It is therefore submitted that the basis for relief pursuant to Section 362(d)(2) of the Code is satisfied as the Debtors have no sufficient equity in the Collateral and, upon information and belief, the Collateral is not necessary to an effective reorganization.

Additional Relief

13. VOLVO previously filed a Motion for Relief from Stay on November 21, 2024.

14. A copy of the proposed order is attached hereto as Exhibit “2”.

WHEREFORE, based on the foregoing and under §362(d) of the Code, VOLVO respectfully requests that this Court enter an Order terminating, annulling or modifying the automatic stay under §362 to the extent necessary to permit VOLVO to promptly repossess and sell the Collateral, and for such other and further relief as is just and proper under the circumstances.

Dated: Dublin, Ohio
March 21, 2025

/s/ Geoffrey J. Peters
GEOFFREY J. PETERS, ESQ.
WELTMAN, WEINBERG & REIS CO., LPA
5475 Rings Road, Suite 200
Dublin, OH 43017
(614) 883-0678
gpeters@weltman.com
Attorney for Movant

On March 24, 2025 deponent served the within

**MOTION FOR RELIEF FROM STAY, AFFIRMATION IN SUPPORT OR MOTION FOR
RELIEF FROM THE AUTOMATIC STAY WITH ATTACHED EXHIBITS AND PROPOSED
ORDER**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of Ohio:

Scott S. Markowitz, Debtor's Attorney
1350 Broadway, 11th Floor
New York, NY 10018

Yann Geron, Trustee
370 Lexington Avenue, Suite 1208
New York, NY 10017

U.S. Trustee
Office of the United States Trustee
Alexander Hamilton Custom House
One Bowling Green, Room 534
New York, NY 10004-1408

Erica Itzhak
345 East 56th Street Apt 4D
New York, NY 10022

Annie Wells, Attorney for U.S. Trustee
Alexander Hamilton Custom House
One Bowling Green, Suite 511
New York, NY 10004

All creditors on the attached matrix

/s/ JANELLE WOODARDS
Janelle Woodards, Legal Assistant
WELTMAN, WEINBERG & REIS CO., LPA

Label Matrix for local noticing
0208-1
Case 24-10669-jpm
Southern District of New York
Manhattan
Thu Oct 31 11:44:48 EDT 2024

Manhattan Division
One Bowling Green
New York, NY 10004-1415

BLUEVINE INC.
c/o WEISNTEIN & RILEY, PS
1415 Western Avenue, Ste 700
SEATTLE, WA 98101-2051

Capl/Saks
Po Box 10327
Jackson, MS 39289-0327

Citi
Pob 6241
Sioux Falls, SD 57117-6241

Citibankna
Pob 769006
San Antonio, TX 78245-9006

(p)DISCOVER FINANCIAL SERVICES LLC
PO BOX 3025
NEW ALBANY OH 43054-3025

JPMorgan Chase Bank, N.A.
s/b/m/t Chase Bank USA, N.A.
c/o National Bankruptcy Services, LLC
P.O. Box 9013
Addison, Texas 75001-9013

Macys/Cbna
Po Bpx 8053
Mason, OH 45040-8053

New York State Department of Taxation & Fina
Bankruptcy Section
P O Box 5300
Albany New York 12205-0300

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

American Express National Bank
c/o Becket and Lee LLP
PO Box 3001
Malvern PA 19355-0701

Barclays Bank Delaware
1007 N Orange St
Wilmington, DE 19801-1239

Capital One
11013 W Broad St
Glen Allen, VA 23060-6017

Citibank N.A.
Citibank, N.A.
5800 S Corporate Pl
Sioux Falls, SD 57108-5027

Creditonebnk
Pob 98872
Las Vegas, NV 89193-8872

FC Marketplace, LLC
c/o Becket and Lee LLP
PO Box 3002
Malvern PA 19355-0702

(p)JPMORGAN CHASE BANK N A
BANKRUPTCY MAIL INTAKE TEAM
700 KANSAS LANE FLOOR 01
MONROE LA 71203-4774

NORDSTROM, INC.
Jefferson Capital Systems LLC Assignee
Po Box 7999
Saint Cloud MN 56302-7999

New York State Tax Commission
Bankruptcy/Special Procedures Section
P.O. Box 5300
Albany, NY 12205-0300

Quick Borrow Inc.
190 Jericho Tpke
Mineola, NY 11501-1701

Amex
P.O. Box 7871
Fort Lauderdale, FL 33329

Capl/Neimn
Po Box 5253
Carol Stream, IL 60197-5253

Capital One N.A.
by AIS InfoSource LP as agent
PO Box 71083
Charlotte, NC 28272-1083

Citibank, N.A.
5800 S Corporate Pl
Sioux Falls, SD 57108-5027

Discover Bank
Discover Products Inc
PO Box 3025
New Albany, OH 43054-3025

Fb&T/Mercury
Po Box 84064
Columbus, GA 31908-4064

LVNV Funding, LLC
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

New York City Dept. Of Finance
Taxpayer Identification Unit
25 Elm Place, 3rd Floor
Brooklyn, NY 11201-5826

Nordstm/Td
Po Box 13589
Scottsdale, AZ 85267-3589

(p)PORTFOLIO RECOVERY ASSOCIATES LLC
PO BOX 41067
NORFOLK VA 23541-1067

Quantum3 Group LLC as agent for
Mercury Financial/First Bank & Trust
PO Box 788
Kirkland, WA 98083-0788

Quick Borrow Inc.
190 Jericho tpke
United States
mineola, NY 11501-1701

Quick Borrow Inc.
45 Glen Cove Road
Greenvale, NY 11548-1057

Quick Borrow Inc.
45 Glen Cove Road, 1st Floor
Greenvale, New York 11548-1057

Resurgent Receivables, LLC
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Sofi Bank, National Association
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Sofibank N.A
2750 East Cottonwood Parkway
Salt Lake City, UT 84121-7284

Synco/Ppc
Po Box 965005
Orlando, FL 32896-5005

TD Bank, N.A.
PO Box 16041
Lewiston, ME 04243-9523

TD Bank, N.A., successor in interest to TD A
Gross Polowy LLC
1775 Wehrle Drive, Suite 100
Williamsville, NY 14221-7093

Tarter Krinsky & Drogin LLP
1350 Broadway, 11th Floor
New York, NY 10018-0947
Attn: Scott S. Markowitz, Esq.

Td Auto Fin
Po Box 9223
Farmington, MI 48333-9223

(p)US BANK
PO BOX 5229
CINCINNATI OH 45201-5229

United States Trustee
Office of the United States Trustee - NY
Alexander Hamilton Custom House
One Bowling Green, Room 534
New York, NY 10004-1459

VOLVO CAR FINANCIAL SERVICES LLC
c/o Weltman, Weinberg & Reis Co. LPA
5000 Bradenton Ave., Ste. 100
Dublin, OH 43017-3574

Volvo Car Financial Services LLC
c/o Weltman, Weinberg & Reis Co LPA
965 Keynote Circle
Cleveland, OH 44131-1829

Volvocartrl
Po Box 91614
Mobile, AL 36691-1614

Yossef Kahlon a/k/a Jossef Kahlon
c/o David H. Haft, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
110 Southeast Sixth Street, Suite 2600
Fort Lauderdale, FL 33301-5059

Yossef Kahlon and Atlas Solar Holdings LLC
c/o Vlock & Associates
630 Third Avenue, 18 Floor
New York, NY 10017-6940

Erica Itzhak
345 East 56th Street Apt 4D
New York, NY 10022-3745

Erica T Yitzhak
The Yitzhak Law Group
1 Linden Place, Suite 406
Great Neck, NY 11021-2640

Scott S. Markowitz
Tarter Krinsky & Drogin LLP
1350 Broadway, 11th Floor
New York, NY 10018-0947

Yann Geron
Yann Geron
Geron Legal Advisors LLC
370 Lexington Avenue
Suite 1208
New York, NY 10017-6584

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Discoverbank
Pob 15316
Wilmington, DE 19850

Jpmcb Card
800 Brooksedge Blvd
Westerville, OH 43081

PORTFOLIO RECOVERY ASSOCIATES, LLC
POB 41067
Norfolk, VA 23541

U.S. Bank National Association
Bankruptcy Department
PO Box 108
Saint Louis MO 63166-0108

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)TD Bank, N.A., successor in interest to TD	(u)VOLVO CAR FINANCIAL SERVICES LLC	(d)FC Marketplace, LLC c/o Becket and Lee LLP PO Box 3002 Malvern, PA 19355-0702
(d)Internal Revenue Service PO Box 7346 Philadelphia, PA 19101-7346	(u)Yossef Kahlon	End of Label Matrix Mailable recipients 53 Bypassed recipients 5 Total 58

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

-----X

In re:

Erica Itzhak,

Case No. 24-10669-JPM

Chapter 11

Debtor.

MEMORANDUM OF LAW

-----X

PRELIMINARY STATEMENT

This is a Motion pursuant to Rule 4001(a)(1) of the Federal Rules of Bankruptcy Procedures to lift the Automatic Stay imposed by §362(a) of the United States Bankruptcy Code. The moving party is seeking relief from the Automatic Stay to exercise its state rights under a Retail Installment Sale Contract, (“Agreement”). The basis for this Motion is that Movant has cause for requesting the automatic stay be lifted and Debtor does not have sufficient equity in the Collateral and the Collateral is not necessary for an effective reorganization within the meaning of §362(d)(1) and (d)(2). All of the necessary parties to this Motion have been served with copies of the Notice and supporting Application.

FACTS

As set forth in the application of Secured Creditor, the Debtor executed the Agreement to the Movant in the amount of \$36,716.68, which Agreement was secured by the Collateral.

On the April 19, 2024, the Debtor filed a Petition under Chapter 13 of the Bankruptcy Code and the case was converted to a Chapter 11 on June 28, 2024. Debtor owes Movant \$33,493.22 as of March 6, 2025. According to J.D. Power the average retail value of the Collateral is \$27,156.00.

ARGUMENT

Section 362(d) provides that “upon request of a party in interest, the court shall grant relief from the automatic stay, (1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or (2) with respect to a stay of an action against property under subsection (a) of this section if (a) the debtor does not have any equity in such property; and (b) such property is not necessary to an effective reorganization.”

Pursuant to 11 U.S.C. Section 362(g), the moving party carries the burden of proof with respect to the issue of equity of the property in question. In re Roxrun Estates, Inc. 74 B.R. 997, 1003 (Bankr. S.D.N.Y. 1987), a secured party is a party in interest for the purposes of §362 motions and by showing that the liens on the property exceed the property's worth, a secured creditor will have met this burden. Id.

As aforementioned, the retail value of the Collateral is \$27,156.00 and as such, no sufficient equity exists. Therefore, the stay must be lifted pursuant to §362(d)(1) and (2).

In addition, "a debtor's failure to make regular monthly payments as they become due constitutes sufficient 'cause' to lift the automatic stay." In re Michael Lancelot Taylor, 151 B.R. 646, 648 (Bankr. E.D.N.Y. 1993).

CONCLUSION

WHEREFORE, it is respectfully requested that the Automatic Stay be modified with respect to the Collateral to permit the Secured Creditor to exercise its rights pursuant to the terms of the Retail Installment Sale Contract, and for such other and further relief as this Court deem just and equitable.

Respectfully submitted,
WELTMAN, WEINBERG & REIS CO.
Attorneys for Secured Creditor
VOLVO CAR FINANCIAL SERVICES US LLC

By: /s/ Geoffrey J. Peters
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